

STATEMENT

OF

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BEFORE THE

**HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION AND CLAIMS**

REGARDING

**THE INS AND THE OFFICE OF SPECIAL COUNSEL FOR IMMIGRATION-
RELATED UNFAIR EMPLOYMENT PRACTICES**

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**2237 RAYBURN HOUSE OFFICE BUILDING
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Mr. Chairman, and Members of the Subcommittee:

I am pleased to have the opportunity to talk to you today about the Immigration and Naturalization Service's (INS) role in enforcement of our immigration laws.

The INS is continuing its strategy to gain increasing control of the border, deter and disrupt illegal employment, combat smuggling and other alien-related crime, and remove greater numbers of criminal and other deportable and inadmissible aliens. Additionally, the INS has undertaken an initiative to identify, locate, and remove persons who have been ordered removed, but have subsequently failed to appear for removal or depart as ordered.

Our Interior Enforcement Strategy is a complement to a border control strategy put in place in 1994. The underlying principles and goals of this strategy are designed to respond to the changing migration environment in the United States in all its complexity. It includes the following strategic priorities.

- Identify and remove alien criminals and terrorists
- Deter and diminish smuggling and trafficking of aliens
- Respond to community reports and complaints about illegal immigration and build partnerships to solve local problems
- Minimize immigration benefit fraud and other document abuse
- Deter and limit employment opportunities for aliens not authorized to work

The tragic events of September 11th are a sharp reminder of how important effective immigration control and enforcement is to protecting our national security and the health and safety of our citizens. The complexity and challenges of our mission have never been more stark.

You have asked that my testimony focus on what the INS refers to as worksite enforcement. Our worksite enforcement activity is one facet of our enforcement strategy. As you know, the Immigration and Nationality Act was revised in 1986 to establish employment controls that restrict the availability of work for illegal aliens. The goal, of course, was to deter illegal immigration by removing the employment opportunity magnet.

In this regard, the hiring practices of employers is critical as an effective and credible deterrent to illegal immigration. Most employers know that a legal workforce is a stable workforce and do not have individuals who are not authorized to work in the United States. Nevertheless, we are aware that some employers, in order to secure an imagined short-term economic gain, will hire unauthorized workers, exploit and even abuse them, with utter disregard for their human dignity and civil rights.

By working with employers to improve their process for verifying that individuals who have been selected for employment are authorized to work in the United States, the INS assists employers to develop a stable and legal work force and minimize the disruptive effects of large-scale arrests and investigations. At the same time, the INS works with employers and other federal agencies, including the Office of Special Counsel (OSC), to ensure that hiring practices do not discriminate against authorized workers, or otherwise violate civil rights laws. This collaboration with OSC was particularly important when we were developing the employment verification pilot projects and developing the evaluation designs.

Our strategy emphasizes cooperation with responsible employers and prosecution of unscrupulous employers. This does not reduce our commitment to removing unauthorized workers when necessary, but rather enables us to focus on and aggressively prosecute employers who

engage in illegal activity to sustain an undocumented and exploitable labor pool. Fines and jail time for employers who engage in illegal activity send a clear message to all that these behaviors are not acceptable employment practices. The vast majority of employers comply with the law and are good citizens that meaningfully contribute to the community. The few who do not act responsibly endanger individual workers and their communities.

Under this strategy, we specifically target employers who are abusive to their workers and violate other federal and state laws, regardless of industry or geography. The nexus between smuggling activity and employment is direct. Likewise, the demand for fraudulent documents extends the connection between smuggling and employment. Without documents indicating work authorization, the smuggled alien cannot find work under our current statutory scheme.

The INS has been able to achieve considerable success using this approach. For example, two men were recently convicted in Norfolk, Virginia in a scheme that involved the organized smuggling of Eastern Europeans to work as janitors in several retailers and supermarkets.

Five restaurant managers in the Denver area were recently indicted for harboring dozens of illegal alien employees. The scheme appears to involve sophisticated smuggling from China and the use of employment agency referrals from other parts of the country.

A former manager of an Iowa egg-processing plant has pleaded guilty to harboring illegal immigrants. Additional charges are pending in related cases. Local prosecutors and the Equal Employment Opportunity Commission are also investigating allegations of discrimination and sexual assault against illegal alien workers.

The INS has 2,246 special agents deployed nationwide. An additional 100 positions were authorized for Joint Terrorism Task Forces in the FY 2002 Counter-terrorism Supplemental. Recently, given the large-scale effort to support the PENTTBOMB and national security-related investigations, there has been a decline in other investigations' activity. However, Service-wide there has been a 21 percent increase in employer case completions as a result of an emphasis on worksite enforcement targeting national interest industries.

Specifically, since the terrorist attack of September 11, INS headquarters has directed its field offices to initiate worksite investigations into the hiring practices of companies employing individuals who work at airports and who have direct access to commercial aircraft and other secure areas to ensure that these individuals are authorized to work and that employers are complying with the employment eligibility verification requirements. Particular attention is devoted to companies that provide security at major airports throughout the United States. The operations have included prosecution of individuals who violated criminal immigration statutes, removal of unauthorized aliens from airport worksites, and provision of fraudulent document training to security officials responsible for granting access badges to secure areas.

The primary objective of this initiative is to ensure that travelers and the American people have confidence in their safety and security while traveling. Accordingly, the first group examined under the initiative comprised employers and employees who perform security screening and those having direct or indirect access to aircraft, ramp and baggage handling or any other areas that would make the facility vulnerable to compromise. The second group involved employers and employees who have access to boarding areas such as vendors and building services personnel.

The effort has been undertaken in cooperation with a variety of Federal agencies as well as airport authority management officials. Participating Federal agencies have included the Federal

Bureau of Investigation, and Offices of the Inspector General for the Departments of Labor and Transportation.

The importance of this cooperative effort cannot be over-emphasized. Each agency has its own enforcement and oversight responsibilities and it is extremely important that our efforts be closely coordinated to limit disruption and duplication of effort. We are pleased to report that this cooperative effort has worked well.

This is a huge undertaking. For example, the Los Angeles and San Francisco airports alone account for more than 150 employers and more than 65,000 employees.

The INS effort to date has involved more than 800 employers with more than 200,000 employees. More than 250 cases have been completed. Many investigations are still ongoing and more are expected to begin over the next several months. The inquiries have involved employers from a wide range of industries.

The common denominator is that they employ persons at or near aviation terminals and at least some of these employees have access to secure areas. The employers have included airlines, security firms, food service providers, maintenance/cleaning companies, construction, messenger services, flight services and airport vendors. Special attention is being given to ensuring that airport personnel overseeing secure area badge issuance are trained in how to identify unauthorized and undocumented workers.

The vast majority of employers have been found to be in substantial compliance with their obligations related to employment eligibility verification. We do however expect that some culpable employers will ultimately be fined for hiring individuals not authorized to work in the United States, and the unlawful hiring practices and employment will terminate as a result of the sanctions.

Locations to date have involved most major airports as well as regional and local airports including, but not limited to, Atlanta Hartsfield, BWI, Boston Logan, Dulles, Newark, Detroit, Denver, San Francisco, Oakland, San Diego, Los Angeles, Phoenix, Salt Lake City and Dallas-Fort Worth.

Given the number of employers and employees involved, comparatively few arrests of unauthorized aliens have taken place at work sites. There have been a number of arrests for individuals employed at airports that made false statements related to employment and/or acquiring identification documents. Where appropriate, these cases are being referred to and prosecuted by the local United States Attorneys office.

More than 100 persons have been arrested for a variety of offenses as a result of our worksite enforcement initiative. Some of them have been illegal aliens; others have been charged with offenses related to false statements on applications or fraudulent use of identification documents, social security cards or numbers.

I wish to be clear that none of these arrests has indicated terrorist activity. This enforcement initiative itself, however, is an important preventive step designed to eliminate vulnerabilities in our national transportation system. Similar reviews involving other infrastructure industries will be undertaken as well.

The challenges we face are daunting. But we must stand firm against illegal immigration and smugglers who exploit and profit from human hopes and dreams.

Thank you for the opportunity to present this testimony. I'd be happy to answer questions.